

HOUSE FINANCE COMMITTEE
March 16, 2005
1:56 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:56:04 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Eric Croft
Representative Richard Foster
Representative Mike Hawker
Representative Jim Holm
Representative Mike Kelly
Representative Carl Moses
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Reggie Joule

ALSO PRESENT

Representative Mark Neuman; Representative Tom Anderson; Mark Premo, General Manager, Anchorage Water & Waste Water Utility (AWWU); Suzanne Cunningham, Staff, Co-Chair Meyer; Shalon Szymanski, Staff, Representative Lesil McGuire; Chip Wagoner, Executive Director, Catholic Community Conference, Juneau; Brian Hove, Staff, Senator Seekins

PRESENT VIA TELECONFERENCE

Kate Giard, Chair, Regulatory Commission of Alaska; James Keene, Engineer, Regulatory Commission of Alaska; Virginia Rusch, AARP, Anchorage; David Kranich, Potter Creek Water Company, Anchorage; Larry Meyers, Deputy Director, Tax Division, Alaska Department of Revenue; Vickie Otte, Executive Director, Association of Alaska Native Claims Settlement Act (ANCSA); Sharon McConnell-Gillis, Executive Director, Doyon Foundation; Kathy Mayo, President, Doyon Foundation; Stan Harrington, Anchor Point Chamber of Commerce; Amy Freeden, Senior Controller, Shared Services Department, Cook Inlet Tribal Council; William Bomar, Settlers Bay; Wayne Aderhold, Homer

SUMMARY

HB 108 "An Act relating to the regulation of water and sewer utilities of political subdivisions that are

not in competition with other water and sewer utilities."

CSHB 108 (FIN) was heard and HELD in Committee for further consideration.

HB 61 "An Act relating to licensing for a Calcutta pool as a game of chance."

CSHB 61 (FIN) was heard and HELD in Committee for further consideration.

HB 88 "An Act relating to certain weapons offenses involving minors; to aggravating factors in sentencing for certain offenses committed against a school employee; and providing for an effective date."

HB 88 (FIN) was postponed.

SB 42 "An Act extending the reporting date for and the termination date of the Task Force on Naturopathic Scope of Practice; and providing for an effective date."

SB 42 was REPORTED out of Committee with a "do pass" recommendation and with a zero fiscal note from the Department of Commerce, Community and Economic Development.

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HOUSE BILL NO. 108

"An Act relating to the regulation of water and sewer utilities of political subdivisions that are not in competition with other water and sewer utilities."

REPRESENTATIVE TOM ANDERSON explained that HB 108 changes existing law by adding lines 5-8 on page 2, which would exempt Anchorage Water & Waste Water Utility (AWWU) from regulation by the Regulatory Commission of Alaska (RCA). The language states that a water utility owned by a political subdivision that does not directly compete with another water utility is exempt from RCA regulation. He noted that the city of Pelican is the only city still regulated by the RCA. Last year's legislation regarding this issue was HB 515, but time ran out before it was passed.

Representative Anderson related that local control is the issue, and there is no evidence that shows that RCA is any better for the consumer in Anchorage. He noted that he has worked with AWWU, the Mayor's office, the Anchorage

Assembly, and Anchorage legislators to develop a plan for an oversight authority over the utility to maintain the level of consumer protection while encouraging and fostering stronger local governments of locally owned and operated water utilities. He opined that the new CS addresses concerns about the assembly's overseeing rates.

Vice-Chair Stoltze asked what the overall goal of the bill is. Representative Anderson explained that the goal is to discontinue payment to RCA, and allow for a public protest process, better access to utilities, and parity with other municipalities.

MARK PREMO, GENERAL MANAGER, ANCHORAGE WATER & WASTE WATER UTILITY (AWWU), stated that the main reasons for HB 108 are to attain parity and local control, and because RCA regulation processes are very slow and expensive, and not responsive to local needs. All other communities in Alaska publicly own utilities.

Mr. Premo testified in support of HB 108. He related that the bill would exempt AWWU from economic regulation by RCA. During the last session, the House of Representatives approved HB 515, which would have served the same purpose, but time ran out and the Senate did not act on the bill.

Mr. Premo shared the two reasons why the Municipality of Anchorage (MOA) desires exemption from RCA: current regulation procedures are slow and expensive and are non-responsive to local needs. He shared that from 1993 to 2003, AWWU filed only minor housekeeping and procedural matters with the RCA and never requested a rate increase, yet ratepayers paid approximately \$2.8 million in regulatory assessments during this period. In 2004, AWWU paid \$445,000 to cover the cost of regulation and estimates are that more than \$500,000 will be paid in 2005. He emphasized that the greater cost is in the form of preparing filings and in regulatory lag. History and present events show that local regulation is faster, less structured and more economical.

Mr. Premo shared that the RCA process was designed for private utilities and is not entirely appropriate for municipal utilities. The RCA process is very structured and intimidating to a ratepayer. The RCA is not accountable to Anchorage residents. The municipality is more responsive to local needs and is directly accountable to the ratepayers and municipal voters through public hearings.

Mr. Premo maintained that self-regulation has worked effectively in Anchorage. He cited the proven track record of the Port of Anchorage, Merrill Field, and Solid Waste Services. AWWU has provided its customers with excellent service, low stable rates and sound finances, without the assistance from the RCA. MOA supports the establishment of

a strong, independent authority to oversee and regulate AWWU in lieu of the RCA.

Mr. Premo emphasized that the MOA supports amendments to HB 108. During the hearing before the House Commerce and Labor Committee, some members proposed strengthening the bill to include language that the bill not become effective until the municipality created an authority designed to protect the consumer. There was also interest in addressing the transition of the current rate case AWWU has before the RCA. Mr. Premo referred to a letter (copy on file) which states Mayor Begich's support for establishing an authority made up of a board of experts appointed by the mayor and approved by the assembly, which would serve 5-year staggered terms. The board would be responsible for the operation and management of AWWU under the oversight of the municipal assembly. Both the board and the assembly would have to hold public hearings on all rate increases.

Mr. Premo indicated that the MOA would support an amendment requiring that HB 108 not become effective until the MOA creates an authority. It would also support an amendment to address the transition of the current rate case if self-regulation occurs. The passage of HB 108 would balance consumer protection with financial soundness and AWWU would continue to operate on a sound business basis.

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Representative Foster MOVED to ADOPT work draft 24-LS0455\G, Craver, 3/15/05. Representative Weyhrauch objected for discussion purposes.

Representative Holm asked why Pelican is not involved in this process. Mr. Premo replied that he does not know. He recalled testimony during HB 515 last session that it is related to when Pelican took over the water system from the cold storage fisheries processor. Representative Holm inquired if the Regulatory Commission of Alaska would be testifying. Co-Chair Meyer replied yes.

Representative Weyhrauch asked if Section 1 in the new CS was added by the House Labor and Commerce Committee. Representative Anderson said yes. He asked why the intent of the committee is not directly stated in a letter, as opposed to including it in the bill. Representative Anderson deferred to Mr. Premo.

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Mr. Premo speculated that Section 1 is the wording provided by legislative legal council. Representative Weyhrauch discussed the merits of having a letter of intent. He rationalized that the goals of the city are met, the public's interest is met, and the legislature's duty of

passing law is met. Representative Anderson said he has no problem with attaching a letter of intent. Representative Weyhrauch suggested that the committee consider this idea.

Co-Chair Meyer agreed to allow Representative Weyhrauch a day to research and possibly draft such a letter.

Vice-Chair Stoltze asked if the legislative intent should be codified with "shall". Mr. Premo explained that eighteen months ago there were two very separate issues, the termination of self-regulation and the desire for an authority to run the utility in a more businesslike manner. Now the two issues are joined together in this bill. The MOA will move forward to form an authority to govern the utilities. However the legislature decides to handle it, the MOA will be supportive.

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Vice-Chair Stoltze wondered if rate collections by the new authority could possibly run into the same problems as the RCA had. Mr. Premo explained that the regulatory charge would no longer be charged to consumers under the new plan.

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Vice-Chair Stoltze asked if MOA would replicate a surcharge. Mr. Premo said no. Vice-Chair Stoltze asked where the money would come from. Mr. Premo replied rate structures that the board would set. Vice-Chair Stoltze inquired whether the board or the assembly has final authority. Mr. Premo said the board. Vice-Chair Stoltze asked if the assembly has any role in setting rates. Mr. Premo said the assembly would approve the rates as stated in the charter through a public hearing process.

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Co-Chair Meyer voiced similar concerns. He maintained that the authority concept is a good idea, with the understanding that the authority serves with the assembly's approval. Mr. Premo explained there would be seven board seats based on specific expertise with staggered 5-year terms, appointed by the mayor and confirmed by the assembly, and only removed by cause. Co-Chair Meyer asked if AWWU and Pelican are the only two areas still under RCA.

Representative Anderson said that is correct. He stated that the questions and concerns are fair because there could be a monopoly by the assembly and the mayor. He suggested that 3-year terms might be more appropriate. He maintained that it is not the intent of the bill to save money by reducing rates, but to bring in local control.

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Co-Chair Meyer agreed with the idea of 3-year terms.

Representative Weyhrauch WITHDREW his OBJECTION to adopt the CS as a work draft. There being NO OBJECTION, it was so ordered.

In response to a question by Vice-Chair Stoltze, Mr. Premo defined a competing entity as an entity that has overlapping service areas and provides the same service. Small utilities have their own service areas. He pointed out that the bill is for regulation, not for service area regulation.

Co-Chair Meyer opened up public testimony.

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KATE GIARD, CHAIR, REGULATORY COMMISSION OF ALASKA, related that Anchorage has a very well run utility and the MOA should take pride in it. She voiced a concern that the consumer should be offered the same level of protection from rate increases that they have now. RCA has not gone through a rate case with the utility for several years. The city is putting forward a step in the right direction so that consumers can be certain of stability in the utility. She cited maintenance problems in Fairbanks when their utility became unregulated. She related strengths of the Anchorage utility. She expressed appreciation for the opportunity for consumers to have a fully-bedded rate structure.

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Representative Weyhrauch asked if the bill affects Pelican. Ms. Giard replied that it does not. She explained that when Pelican Seafood transferred the water utility to the city it was concerned about rate increases and the city agreed to come under economic regulation.

Co-Chair Chenault asked about the fiscal note, the three new positions, and their effect on RCA. Ms. Giard explained that RCA collects revenues based on a percentage of total growth revenues of all regulated utilities, and AWWU has \$60 million in revenue in its pool, which will begin to decrease. Decreased revenues will lead to a smaller budget, and decisions will be made based on a smaller operating budget. She opined that it is not good public policy to require an entity to continue to be regulated just to provide regulatory cost charges to the agency.

Vice-Chair Stoltze referenced Mr. Premo's testimony about smaller utilities not affecting service areas. Ms. Giard agreed with Mr. Premo's conclusions. Vice-Chair Stoltze

asked if a balloting process would be needed when a LID is proposed, if this bill passes.

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JAMES KEENE, ENGINEER, REGULATORY COMMISSION OF ALASKA, explained that RCA would retain control of a service area but would not have jurisdiction over specific LIDs and WIDs. Vice-Chair Stoltze asked what would be left for RCA to manage. Mr. Keene replied that if the entire AWWU service area were to be altered, RCA would review the alteration. Vice-Chair Stoltze asked if alter means to create a new service area, as well, and if approval would be needed by RCA. Mr. Keene replied yes and explained the procedure.

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VIRGINIA RUSCH, AARP, ANCHORAGE, related her background in utility regulation. She shared that AARP has over 30,000 members in Anchorage and more in the surrounding area. She voiced a concern about the way AWWU is regulated, and noted that AARP supports having utility rates determined by an independent agency with adequate expertise and staff, allowing public participation and having a well-funded consumer advocate. She emphasized that passage of HB 108 would derail the rate case that is in progress right now. RCA should be able to consider the Attorney General's filings. She shared a negative experience in Fairbanks when the city sold all of its municipal utilities to a regulated investor-owned utility. She concluded that AARP recommends a "no" vote on HB 108.

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DAVID KRANICH, POTTER CREEK WATER COMPANY, ANCHORAGE, related his experience with unregulated utilities and RCA. He maintained that RCA is a great resource because they help regulate according to accepted utility management practices. He voiced concern that a board appointed by the mayor may not have needed expertise. By utilizing RCA, maintenance problems may be avoided. He spoke against HB 108.

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Co-Chair Meyer closed public testimony.

Vice-Chair Stoltze MOVED to ADOPT Amendment 1. Co-Chair Meyer OBJECTED for discussion purposes.

SUZANNE CUNNINGHAM, STAFF, CO-CHAIR MEYER, explained that Amendment 1 amends the title of the bill to provide for an effective date and for a contingent effective date. There was some concern about AWWU, which was owned by a political subdivision, coming out from underneath the regulation of

the RCA, and a lack of consumer protection and lack of authority over the utility. Ms. Cunningham referred to a written promise from Mayor Begich letter (copy on file), which establishes an authority commission composed of seven members with staggered five-year terms to deal with consumer protection issues.

Co-Chair Meyer asked Representative Weyhrauch if his concerns are assuaged.

Representative Weyhrauch replied that he has written a conceptual amendment that deals with his concerns.

Co-Chair Meyer WITHDREW his OBJECTION to adopt Amendment 1.

Representative Holm OBJECTED. He referred to line 13 in the amendment and related that he comes from Fairbanks and remembers problems with an appointed board. He pointed out that there is no structure in Amendment 1 that protects the consumer. He opined that it works better right now in Fairbanks with RCA oversight. He questioned whether appointing an authority is the best way to allow for consumer protection, but he acknowledged the need to get rid of excessive regulatory rates.

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Co-Chair Meyer agreed with Representative Holm about the inconsistency of the effectiveness of authority commissions. He explained the advantages of having a body separate from the Anchorage Assembly to be used as a checks and balance when determining rates.

Vice-Chair Stoltze pointed out a concern about the Anchorage Parking Facility. He termed it a "political entity run amok."

Ms. Cunningham addressed Representative Holm's concern about the requirements of the commission. She explained that when drafting the contingency language, legal services was hesitant about inserting specific stipulations about the board. She concluded, "This was the closest that we could get to require that there be some kind of authority commission in place that was approved by the governing body of the political subdivision."

Representative Holm repeated that it is a difficult situation. He again related how much better it is today in Fairbanks with RCA providing services.

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Representative Hawker suggested that Representative Holm's objections might be about the whole bill rather than

Amendment 1. The words "fair and open process" are in the amendment in order to provide sound language based on standard industry practices. He opined that the amendment provides adequate control and oversight by the RCA, prior to the RCA ceding its control. He asked if he is on track with his ideas.

Ms. Cunningham replied yes. The board must be in place before the utility can come out from under RCA regulation. Representative Hawker added that a standard for the board has been established, and the chair of RCA makes the determination that the standard has been met. Ms. Cunningham agreed.

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Vice-Chair Stoltze concurred with Representative Hawker's analysis of the assurances in the amendment.

Representative Holm WITHDREW his OBJECTION.

Co-Chair Meyer spoke in support of Amendment 1. There being NO OBJECTION, it was so ordered.

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Representative Weyhrauch MOVED to ADOPT Conceptual Amendment 2, which would remove the intent language in the bill and make it a part of the statute. Representative Hawker OBJECTED for discussion purposes.

Representative Weyhrauch explained that page 1, lines 6-9 would read, "Section 1. A water or sewer utility owned and operated by a political subdivision that is exempt from AS 42.05 as provided by AS 42.05.711(b)(2)(B) and (C), added by sec. 2 of this Act, shall establish fair and open public processes for rate setting." The words, "The uncodified law of the State of Alaska is amended by adding a new section to read:" would be deleted.

Representative Croft requested information about municipal charter restrictions and how much leeway the legislature has to mandate procedures.

Representative Hawker looked at the construct of Conceptual Amendment 2. He questioned which entity is being directed by the word "shall", the utility or the political subdivision. Representative Weyhrauch amended Conceptual Amendment 2, to remove Section 1 because Amendment 1 already discusses the "fair and open process".

Representative Hawker removed his OBJECTION to adopt Conceptual Amendment 2, as amended.

Representative Weyhrauch emphasized that by striking Section 1 it is not the intent of the committee to strike the idea of a fair and open public process.

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Mr. Premo, in response to an earlier question about water utility rates and the Anchorage tax cap, pointed out that they are independent and separate.

HB 108 was heard and HELD in Committee for further consideration.

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HOUSE BILL NO. 61

"An Act relating to licensing for a Calcutta pool as a game of chance."

SHALON SZYMANSKI, STAFF, REPRESENTATIVE MCGUIRE, explained that under current state law there is a very narrow and specific list of allowable games of chance for charitable purposes. This bill would add "Calcutta pool" to that list. Calcutta pools have been held in the past to raise money for charity. The way that one is run is that prior to the sporting event, the teams are auctioned off and the money is put into a pot. The person who is the high bidder on the winning team gets a predetermined percentage of the pot and the remaining money goes to the organization holding the permit. Calcutta pools present no more harm to the public than other charitable giving activities such as "rat races", classics, and pull tabs, which are already legal.

Representative Stoltz MOVED to ADOPT work draft 24-LS0281\F, Luckhaupt, 3/04/05. There being NO OBJECTION, it was so ordered.

In response to Representative Weyhrauch's question, Ms. Szymanski explained how a Calcutta pool works.

Representative Stoltz asked about the derivation of the game. Ms. Szymanski replied that she does not know.

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Representative Hawker noted that there have been three expansions of the statutes. He questioned why the prohibition on municipalities conducting games of skill and chance are not just removed. Ms. Szymanski declined to answer.

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LARRY MEYERS, DEPUTY DIRECTOR, TAX DIVISION, ALASKA DEPARTMENT OF REVENUE, testified via teleconference. He noted that he oversees charitable gaming for the department.

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Vice-Chair Stoltze asked how the proposed statute would interface with existing statute. He observed the complexity of the statutes.

Mr. Meyer noted that Calcutta pools have been in the state of Alaska in an unauthorized form. It would be an expansion and would have an impact around the state. He noted that communities from around the state could game on the winner of the Iditarod. They would need to provide gaming permits and reports and the state would receive one percent of the prizes awarded. The real benefit would go to the charities. Calcutta gaming occurs in only three other states, all in western areas. He predicted that Calcutta pools would be exciting events.

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Vice-Chair Stoltze observed that it would be a significant change and questioned the department's position. Mr. Meyers stated that there are risks and rewards with every new program. From the charity's point of view, the activity will be beneficial. He stressed the need to bring current practices "above the table". He noted limitations on participation: no one under 18 can wager.

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In response to a question from Vice-Chair Stoltze, Mr. Meyers suggested that the scope could be limited to specific classifications and the legislation could narrowly define events.

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Representative Croft asked what the effect would be of allowing entities to do whatever they want. Mr. Meyer observed that there are social and economic impacts to the extension of charitable gaming. He was not prepared to comment further on the ramifications.

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VICKIE OTTE, EXECUTIVE DIRECTOR, ASSOCIATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA), testified via teleconference in support of the legislation. She observed that charitable gaming helps to provide assistance to non-profits and people in need. She stressed the difficulty of raising money for charities and noted that many would participate in golf

tournaments. One Calcutta event raised \$800 thousand for charity before it was deemed to be illegal. She spoke in support of the legislation and emphasized those that it would help.

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SHARON MCCONNELL-GILLIS, EXECUTIVE DIRECTOR, DOYON FOUNDATION, testified via teleconference in support of the legislation. She observed that Doyon provides scholarships, which rely on revenues from fundraisers and corporate contributions. Doyon Foundation anticipates additional scholarship dollars could be raised through Calcutta pools.

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KATHY MAYO, PRESIDENT, DOYON FOUNDATION, testified via teleconference in support of SB 61. She opined that Calcutta pools would bring in money from new sources.

AMY FREEDEN, SENIOR CONTROLLER, SHARED SERVICES DEPARTMENT, COOK INLET TRIBAL COUNCIL, testified via teleconference in support of HB 61, which would provide another tool for non-profit fundraising. She observed the reduction of support for non-profits and the difficulty of maintaining funds. She thought that the Calcutta pools would be centered on golf.

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Vice-Chair Stoltze noted that the testimony centered on golf.

WILLIAM BOMAR, SETTLERS BAY, testified via teleconference in support of HB 61. He noted that he has participated in a number of Calcutta pools, which only benefited the players. He stressed that the legislation would be a successful way for non-profits and local charities to raise funds.

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STAN HARRINGTON, ANCHOR POINT CHAMBER OF COMMERCE, testified via teleconference in support of the bill. He observed that they have operated a Calcutta tournament for the last two years unaware of its illegality. He echoed sentiments of previous testifiers and encouraged passage of HB 61 with an effective date. He added that they plan to hold a King Salmon tournament during Mother's Day.

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CHIP WAGONER, EXECUTIVE DIRECTOR, CATHOLIC COMMUNITY CONFERENCE (CCC), Juneau, responded to previous questions. Each game of skill and chance should be evaluated to see its affect on population. Addiction to gaming is the primary issue. The Catholic community is concerned about its

effects on children and about wagering on college campuses. If Calcutta pools cause addictive behavior there would be concern. Three percent of gamblers are addicted, at immense cost to society.

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Vice-Chair Stoltze noted that CCC sells raffle tickets. Mr. Wagoner observed that they are curtailing raffle activities.

Vice-Chair Stoltze referred to testimony that indicated that the legislation would greatly expand gaming activities and questioned if the scope should be narrowed. Mr. Wagoner agreed.

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Vice-Chair Stoltze MOVED to ADOPT Amendment 1 on behalf of Representative Neuman. Co-Chair Meyer OBJECTED for the purpose of discussion.

REPRESENTATIVE MARK NEUMAN, spoke in support of Amendment 1. He noted that it would allow a crane classic as an authorized form of charitable gaming. Profits would go to a non-profit radio station in Talkeetna and to sandhill crane land preserves.

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Representative Holm clarified that the radio station (KFAR) in Fairbanks, a non-profit, has a goose classic. He inquired if birds fell into the category of animal classics.

In response to a question by Representative Holm, Vice-Chair Stoltze noted that the goose classic was passed in the mid-eighties in Fairbanks. All of the animal classics have specific references and are in the generic animal classic category.

Representative Holm questioned where it would end, if there should be statutes for every animal that comes back to Alaska in the spring. He suggested that "animal classic" should be identified.

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Representative Neuman observed that the Game Commission has to identify each activity. He noted that the crane classic refers to sandhill cranes.

Co-Chair Meyer WITHDREW his OBJECTION. Vice-Chair Stoltze WITHDREW Amendment 1.

HB 61 was heard and HELD in committee for further consideration.

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SENATE BILL NO. 42

"An Act extending the reporting date for and the termination date of the Task Force on Naturopathic Scope of Practice; and providing for an effective date."

BRIAN HOVE, STAFF, SENATOR RALPH SEEKINS, explained the history of the task force and the intention of the bill, which should now have a broader base of support.

Co-Chair Meyer asked if the fiscal note is a zero note. Mr. Hove said it is.

Representative Hawker asked why the deadline was extended and why there is a zero fiscal note. Mr. Hove replied that it is important to have the force of law to obtain better results from the task force. He related that there is no cost and nothing is budgeted.

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Vice-Chair Stoltze asked why it is a statute instead of a resolution. Mr. Hove responded that the bill morphed from a naturopathic bill into a naturopathic task force.

Representative Foster MOVED to report SB 42 out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SB 42 was REPORTED out of Committee with a "do pass" recommendation and with a zero fiscal note from the Department of Commerce, Community and Economic Development.

ADJOURNMENT

The meeting was adjourned at 4:04 PM.